

REMARKS

Applicant thanks the Examiner for his/her careful consideration of this case.

Claims 1-45 are currently pending in the application. Claims 1-20 and 36-45 are rejected under 35 U.S.C. §§102 and 112 based on a number of positions laid out in detail in the 1/26/05 Office Action. Without conceding to any positions taken by the Examiner, but solely to expedite prosecution of a portion of their invention of particular current interest, Applicant has presented a set of more narrowly focused amended claims on pages 2-16 of this paper. Specifically, claims 1, 2, 3, 8, 9, 12, 14, 15, 19, 38, 39, 42, 43 and 45 have been amended; and claims 25, 26, 32, 34, 35, 37, 41 and 44 have been canceled. Claims 4-7, 10, 11, 13, 16-18, 20-24, 27-31, 33, 36 and 40 remain unchanged. Applicant respectfully submits that no new matter is added through the proposed amendment to the claims. Below we address each of the rejections stated in the Office Action as if it were applied to the newly amended claims.

As discussed above, the present Amendment is being made solely to expedite prosecution of the subject matter now claimed, rather than in acquiescence to any positions taken by the Examiner. In fact, Applicant is *not* acquiescing to any of those positions and are submitting their amendments without prejudice to the subsequent prosecution of claims to some or all of the subject matter which might be lost by virtue of this paper. Applicant explicitly reserves the right to pursue the subject matter of any of the canceled claims, or some or all of the subject matter which might be lost by virtue of this paper, in Continuation Applications.

Amendments to the Claims

Applicant respectfully submits that no new matter is presented with the proposed amendments. The newly added claims are fully supported by the specification and claims, as originally filed. For example, the compound structure in claim 1 has been amended to replace variable X with an oxygen atom. Corresponding amendments were made to claims 8 and 14. In addition, in claims 1 and 2, as amended, recitation of R₉ includes hydrogen, halogen, SR₁₂, NR₁₂R₁₃, -X₁(CH₂)_pX₂-R₁₄, lower alkyl optionally substituted with hydroxyl, protected hydroxyl, halogen, amino, protected amino, or -X₁(CH₂)_pX₂-R₁₄; variable Y recites CHR₁₇, CR₁₇ or NR₁₇ and Z is defined as being CHR₁₈, C=O, CR₁₈ or NR₁₈. Support for this language can be found throughout the specification, and *inter alia* in original claim 1. In addition, the limitation of now

canceled claim 37 has been introduced in amended claim 1. Similar amendments were made to method claim 39.

Claims 1, 2, 3, 9, 12, 15, 19 have been amended to remove the recitation of variable X in view of the amendment to the structure of claims 1, 8 and 39.

Claim 38 was amended to correct claim dependency in view of the cancellation of claim 37.

Claim 39, as amended, recites specific diseases, support for which can be found *inter alia* in original claim 41.

Claim 42 was amended to correct claim dependency in view of the cancellation of claim 41.

Claim 43, as amended, recites additional compounds, support for which can be found, for example in original claims 21-24, 27-31 and 33.

Finally, claim 45 was amended to correct claim dependency in view of the cancellation of claim 44.

No new matter is being introduced through these amendments.

1. Rejections Under 35 U.S.C. § 102

The Examiner has rejected claims 1-3, 6-7, 36-42 and 44-45 under 35 U.S.C. § 102(a) as being anticipated by WO 02/48136, pointing to compounds 1, 2 4 and 8-13 on pages 4-5 of the cited reference.

In addition, the Examiner has rejected claims 1-3, 6-7, 36-42 and 44-45 under 35 U.S.C. § 102(b) as being anticipated by each of the following:

GB 2,323,845, pointing to compound 1 in the abstract;

EP 606,044, pointing to compound 1 in the abstract;

Dombrowski *et al.*, pointing to Figure 1 page 1079;

Zhao *et al.*, pointing to Tables 2 and 3 on pages 1090-1091;

US 5,795,910, pointing to claim 1; and

Agatsuma *et al.*, pointing to Figure 1 page 373.

Applicant submits that the compounds disclosed in each of the above-cited references do not fall within the scope of the presently claimed invention. Specifically, R₉ in the instant claims cannot be an O-linked radical. Accordingly, none of the cited references anticipate the presently claimed invention.

In light of the above remarks, Applicant respectfully requests that the stated rejection be withdrawn.

2. Rejections Under 35 U.S.C. § 112, Second Paragraph

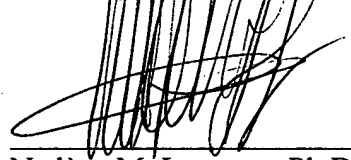
The Examiner states that the term “inhibit production of a pro-inflammatory and/or immunologic cytokine” and “the term autoimmune disorder” fail to specifically define an art-recognized disease to be treated. Without conceding the Examiner’s position, but solely to expedite prosecution, Applicant has amended the claims so that the language objected to is no longer used in the context of defining a disease to be treated, thereby rendering the stated rejection moot.

CONCLUSION

Applicant thanks the Examiner for his/her time and consideration. If a telephone conversation would help clarify any issues, or help expedite prosecution of this case, Applicant invites the Examiner to contact the undersigned at (617) 248-5150.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that any additional fees are required for consideration of this paper (including fees for net addition of claims), these fees are authorized to be charged to our Deposit Account No. 03-1721.

Respectfully submitted,
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